

AMENDED IN SENATE JULY 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 232

Introduced by Assembly Member ~~Travis Allen Obernolte~~
*(Coauthors: Assembly Members Alejo, Bigelow, Dodd, Gallagher,
Gipson, Gordon, Gray, Lackey, Levine, Mayes, Melendez, Olsen,
Quirk, Waldron, Wilk, and Wood)*
(Coauthors: Senators Hill, Liu, McGuire, Morrell, Nielsen, and Roth)

February 4, 2015

An act to amend Section ~~5080.40~~ of 4222 of, and to amend, repeal, and add Sections 4213 and 4220 of, the Public Resources Code, relating to ~~parks and monuments~~, forestry and fire prevention, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 232, as amended, ~~Travis Allen Obernolte~~. ~~Parks and monuments: operating leases or agreements. State responsibility areas: fire prevention fees.~~

Existing law requires the state to have the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas, as defined. Existing law requires that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area. Existing law requires that the fee be collected annually by the State Board of Equalization in accordance with specified procedures, and specifies that the annual fee shall be due and payable 30 days from the date of assessment by the state board. Existing law authorizes a petition for redetermination of the fee to be

filed within 30 days after service of a notice of determination, as specified.

This bill would, for a period of 5 years, extend the time when the annual fire prevention fee is due and payable from 30 to 60 days from the date of assessment by the State Board of Equalization and authorize the petition for redetermination to be filed within 60 days after service of the notice of determination, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law authorizes the Department of Parks and Recreation to enter into agreements with an agency of the United States, a city, county, district, or other public agency, or any combination thereof, for the care, maintenance, administration, and control by a party to the agreement of lands under the jurisdiction of a party to the agreement, for the purpose of the state park system. Existing law prohibits the department from entering into an operating lease or agreement, or amendment, unless one of 2 conditions are met including if, following enactment of the annual Budget Act, the State Public Works Board determines, among other things, that the proposed lease or agreement, or amendment, could not have been presented to the Legislature for review during the annual budget process, as provided. In those circumstances existing law authorizes the board to review and approve the proposed lease or agreement, or amendment, no earlier than 20 days after it has provided written notification to the chairpersons of certain legislative committees, as provided.~~

~~This bill would instead authorize the board to review and approve a proposed lease or agreement, or amendment, no earlier than 30 days after it has provided written notification to the chairpersons of those legislative committees, as provided.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4213 of the Public Resources Code is
2 amended to read:

3 4213. (a) (1) ~~Commencing with the 2011–12 fiscal year, the~~
4 The fire prevention fee imposed pursuant to Section 4212 shall be
5 collected annually by the State Board of Equalization in accordance
6 with the Fee Collection Procedures Law (Part 30 (commencing

1 with Section 55001) of Division 2 of the Revenue and Taxation
2 Code).

3 (2) Notwithstanding the appeal provisions in the Fee Collection
4 Procedures Law, a determination by the department that a person
5 is required to pay a fire prevention fee, or a determination by the
6 department regarding the amount of that fee, is subject to review
7 under Article 2 (commencing with Section 4220) and is not subject
8 to a petition for redetermination by the State Board of Equalization.

9 (3) (A) Notwithstanding the refund provisions in the Fee
10 Collection Procedures Law, the State Board of Equalization shall
11 not accept any claim for refund that is based on the assertion that
12 a determination by the department improperly or erroneously
13 calculated the amount of the fire prevention fee, or incorrectly
14 determined that the person is subject to that fee, unless that
15 determination has been set aside by the department or a court
16 reviewing the determination of the department.

17 (B) ~~If it is determined by~~ the department or a reviewing court
18 *determines* that a person is entitled to a refund of all or part of the
19 fire prevention fee, the person shall make a claim to the State Board
20 of Equalization pursuant to Chapter 5 (commencing with Section
21 55221) of Part 30 of Division 2 of the Revenue and Taxation Code.

22 (b) The annual fire prevention fee shall be due and payable ~~30~~
23 60 days from the date of assessment by the State Board of
24 Equalization.

25 (c) On or before each January 1, the department shall annually
26 transmit to the State Board of Equalization the appropriate name
27 and address of each person who is liable for the fire prevention
28 fee and the amount of the fee to be assessed, as authorized by this
29 article, and at the same time the department shall provide to the
30 State Board of Equalization a contact telephone number for the
31 board to be printed on the bill to respond to questions about the
32 fee.

33 (d) ~~Commencing with the 2012-13 fiscal year, if~~ *If* in any given
34 fiscal year there are sufficient amounts of money in the State
35 Responsibility Area Fire Prevention Fund created pursuant to
36 Section 4214 to finance the costs of the programs under subdivision
37 (d) of Section 4214 for that fiscal year, the fee may not be collected
38 that fiscal year.

39 (e) *This section shall become inoperative on the date that is five*
40 *years after the effective date of the act adding this subdivision,*

1 *and, as of January 1, 2021, is repealed, unless a later enacted*
2 *statute, that becomes operative on or before January 1, 2021,*
3 *deletes or extends the dates on which it becomes inoperative and*
4 *is repealed.*

5 *SEC. 2. Section 4213 is added to the Public Resources Code,*
6 *to read:*

7 *4213. (a) (1) The fire prevention fee imposed pursuant to*
8 *Section 4212 shall be collected annually by the State Board of*
9 *Equalization in accordance with the Fee Collection Procedures*
10 *Law (Part 30 (commencing with Section 55001) of Division 2 of*
11 *the Revenue and Taxation Code).*

12 *(2) Notwithstanding the appeal provisions in the Fee Collection*
13 *Procedures Law, a determination by the department that a person*
14 *is required to pay a fire prevention fee, or a determination by the*
15 *department regarding the amount of that fee, is subject to review*
16 *under Article 2 (commencing with Section 4220) and is not subject*
17 *to a petition for redetermination by the State Board of Equalization.*

18 *(3) (A) Notwithstanding the refund provisions in the Fee*
19 *Collection Procedures Law, the State Board of Equalization shall*
20 *not accept any claim for refund that is based on the assertion that*
21 *a determination by the department improperly or erroneously*
22 *calculated the amount of the fire prevention fee, or incorrectly*
23 *determined that the person is subject to that fee, unless that*
24 *determination has been set aside by the department or a court*
25 *reviewing the determination of the department.*

26 *(B) If the department or a reviewing court determines that a*
27 *person is entitled to a refund of all or part of the fire prevention*
28 *fee, the person shall make a claim to the State Board of*
29 *Equalization pursuant to Chapter 5 (commencing with Section*
30 *55221) of Part 30 of Division 2 of the Revenue and Taxation Code.*

31 *(b) The annual fire prevention fee shall be due and payable 30*
32 *days from the date of assessment by the State Board of*
33 *Equalization.*

34 *(c) On or before each January 1, the department shall annually*
35 *transmit to the State Board of Equalization the appropriate name*
36 *and address of each person who is liable for the fire prevention*
37 *fee and the amount of the fee to be assessed, as authorized by this*
38 *article, and at the same time the department shall provide to the*
39 *State Board of Equalization a contact telephone number for the*

1 board to be printed on the bill to respond to questions about the
2 fee.

3 (d) If in any given fiscal year there are sufficient amounts of
4 money in the State Responsibility Area Fire Prevention Fund
5 created pursuant to Section 4214 to finance the costs of the
6 programs under subdivision (d) of Section 4214 for that fiscal
7 year, the fee may not be collected that fiscal year.

8 (e) This section shall become operative on the date that is five
9 years after the effective date of the act adding this section.

10 SEC. 3. Section 4220 of the Public Resources Code is amended
11 to read:

12 4220. (a) A person from whom the fire prevention fee is
13 determined to be due under this chapter may petition for a
14 redetermination of whether this chapter applies to that person
15 within ~~30~~ 60 days after service upon him or her of a notice of the
16 determination. If a petition for redetermination is not filed within
17 the ~~30-day~~ 60-day period, the amount determined to be due
18 becomes final at the expiration of the ~~30-day~~ 60-day period.

19 (b) This section shall become inoperative on the date that is five
20 years after the effective date of the act adding this subdivision,
21 and, as of January 1, 2021, is repealed, unless a later enacted
22 statute, that becomes operative on or before January 1, 2021,
23 deletes or extends the dates on which it becomes inoperative and
24 is repealed.

25 SEC. 4. Section 4220 is added to the Public Resources Code,
26 to read:

27 4220. (a) A person from whom the fire prevention fee is
28 determined to be due under this chapter may petition for a
29 redetermination of whether this chapter applies to that person
30 within 30 days after service upon him or her of a notice of the
31 determination. If a petition for redetermination is not filed within
32 the 30-day period, the amount determined to be due becomes final
33 at the expiration of the 30-day period.

34 (b) This section shall become operative on the date that is five
35 years after the effective date of the act adding this section.

36 SEC. 5. Section 4222 of the Public Resources Code is amended
37 to read:

38 4222. If a petition for redetermination of the application of this
39 chapter is filed within the ~~30-day period~~, period specified in
40 subdivision (a) of Section 4220, the department shall reconsider

1 whether the fee is due and make a determination in writing. The
2 department may eliminate the fee based on a determination that
3 this chapter does not apply to the person who filed the petition.

4 *SEC. 6. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety within*
6 *the meaning of Article IV of the Constitution and shall go into*
7 *immediate effect. The facts constituting the necessity are:*

8 *In order to ensure a smooth beginning for the 2016 fire*
9 *prevention fee collection period and to provide relief at the earliest*
10 *possible time to the rural property owners that this act seeks to*
11 *assist, it is necessary that this act take effect immediately.*

12 ~~SECTION 1. Section 5080.40 of the Public Resources Code~~
13 ~~is amended to read:~~

14 ~~5080.40. (a) An operating lease or agreement shall not be~~
15 ~~entered into, or amended, pursuant to this article unless one of the~~
16 ~~following occurs:~~

17 ~~(1) The Legislature reviews the lease or agreement, or~~
18 ~~amendment, as part of the annual budget process.~~

19 ~~(2) Following enactment of the annual Budget Act, the State~~
20 ~~Public Works Board determines that the proposed lease or~~
21 ~~agreement, or amendment, could not have been presented to the~~
22 ~~Legislature for review during the annual budget process, or that~~
23 ~~the proposed lease or agreement, or amendment, was reviewed~~
24 ~~during the annual budget process but it is necessary to revise the~~
25 ~~terms of the lease or agreement, or amendment, in a material~~
26 ~~respect, and the State Public Works Board determines that it is~~
27 ~~adverse to the interests of the public to defer that review to the~~
28 ~~next annual budget process. Upon making its determination, the~~
29 ~~State Public Works Board may review and approve the proposed~~
30 ~~lease or agreement, or amendment, or any revision thereof, no~~
31 ~~earlier than 30 days after providing written notification to the~~
32 ~~Chairperson of the Joint Legislative Budget Committee, the~~
33 ~~Chairperson of the Assembly Committee on Appropriations, and~~
34 ~~the Chairperson of the Senate Committee on Budget and Fiscal~~
35 ~~Review of the intended action. An action taken by the State Public~~
36 ~~Works Board pursuant to this paragraph shall be reported to the~~
37 ~~Legislature in the next Governor's Budget.~~

38 ~~(b) The department shall include with the proposed lease or~~
39 ~~agreement, or amendment, sufficient documentation to enable the~~
40 ~~Legislature or the State Public Works Board, as the case may be,~~

1 to evaluate fully the estimated operating costs and revenues and
2 all terms upon which the lease or agreement, or amendment, is
3 proposed to be entered into. Specifically, the documentation shall
4 identify both of the following:

5 (1) Any anticipated costs to the state for operation or
6 development under the lease or agreement, or amendment, and the
7 anticipated state share of total operation and development costs.

8 (2) The anticipated annual revenues, net of operation costs, for
9 the unit and the state's share of these revenues.

10 (c) Leases or agreements shall be exempt from subdivisions (a)
11 and (b) when all of the following conditions exist:

12 (1) The lease or agreement involves operation of only a portion
13 of a unit of the state park system.

14 (2) The term of the lease or agreement is for a period of 20 years
15 or less.

16 (3) The lease's or agreement's impact to the unit, including
17 concessions revenue, will not exceed five hundred thousand dollars
18 (\$500,000) in annual gross revenue generated on the property.

19 (4) The lease or agreement does not involve a significant change
20 in state operational funding or staffing levels, and does not include
21 present or future state expenditures for development of the unit.

22 (d) An amendment to an existing lease or agreement shall be
23 exempt from subdivisions (a) and (b) when all of the following
24 conditions exist:

25 (1) The amendment involves operation of only a portion of a
26 unit of the state park system.

27 (2) The amendment's impact to the unit will not exceed five
28 hundred thousand dollars (\$500,000) in annual gross revenue
29 generated on the property.

30 (3) The amendment does not involve a significant change in
31 state operational funding or staffing levels, and does not include
32 present or future state expenditures for development of the unit.